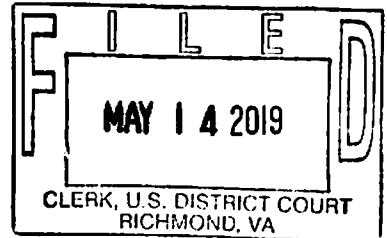


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



RICHARD A. WHITE,)
Petitioner,)
v.) Civil Action No. 3:19CV44-HEH
DIRECTOR OF THE DEPARTMENT)
OF CORRECTIONS,)
Respondent.)

MEMORANDUM OPINION
(Dismissing Without Prejudice 28 U.S.C. § 2254 Petition)

Petitioner, a Virginia inmate proceeding *pro se*, filed a 28 U.S.C. § 2254 petition (“§ 2254 Petition,” ECF No. 10). Before a state prisoner can bring a § 2254 petition in federal district court, the prisoner must first have “exhausted the remedies available in the courts of the State.” 28 U.S.C. § 2254(b)(1)(A). Exhaustion is accomplished by presenting the claims to the Supreme Court of Virginia for review either on direct appeal or in a collateral proceeding. Petitioner stated that the final order in his state habeas proceedings was entered on January 16, 2019 and that he did not appeal. (§ 2254 Pet. 7.) A review of Petitioner’s various submissions revealed that the Circuit Court for the City of Norfolk dismissed his state habeas petition on January 16, 2019 (ECF No. 5-1, at 1–4), and it was unclear whether Petitioner had noted an appeal. Thus, it did not appear that Petitioner had raised these claims before the Supreme Court of Virginia and received a ruling on these claims. Accordingly, the record failed to indicate that Petitioner had properly exhausted his state court remedies with respect to his claims.

By Memorandum Order entered on February 22, 2019, again on March 7, 2019, and finally on April 17, 2019,¹ the Court directed Petitioner to show cause, within eleven (11) days of date of entry thereof, as to why his § 2254 Petition should not be dismissed for lack of exhaustion. Petitioner has not responded to the Court's April 17, 2019 Memorandum Order.

Thus, Petitioner has failed to establish good cause for his lack of exhaustion. Accordingly, the § 2254 Petition will be dismissed without prejudice to re-file after Petitioner has exhausted his state court remedies for all of his claims. A certificate of appealability will be denied.

An appropriate Order shall accompany this Memorandum Opinion.



/s/

HENRY E. HUDSON
SENIOR UNITED STATES DISTRICT JUDGE

Date: May 14, 2019
Richmond, Virginia

¹ The Court noted that the Clerk mailed the Memorandum Order to Hampton Roads Regional Jail although Petitioner clearly indicated that he had been moved to St. Brides Correctional Center. (ECF No. 21, at 1 n.1.)